

Conservation Commission – Town of Spencer

Minutes



Conservation Commission Meeting
Wednesday, June 13, 2012 at 7:00 PM
Town Hall, Conference Room A

The Meeting was opened at 7:18 p.m.

Commissioners Present: Mary McLaughlin, Dana Reed, Ram Moennsad, Warren Snow, Ernie Grimes (arrived at 7:30 p.m.)

Commissioners Absent: Judy Lochner

Staff present: Margaret Washburn

Minutes Approved: May 23, 2012 – *A motion to approve the minutes as amended (Moennsad/Reed) passed 4/0.*

May 30, 2012 – *A motion to approve the minutes (Snow/Reed) passed 4/0.*

Signed: 95 Clark Road, Positive Determination

7:15 p.m. Opened the Continuation of Public Hearing for Notice of Intent for Carl Wilson

Property: 115 Wilson Street, Spencer, MA DEP#293-0769

Roy Smith from R.J. O'Connell Associates updated the Commission. They have met with the Planning Board and the Zoning Board. They also have received the independent peer review final response. Mr. Smith said, based on that response, there were a number of items that were answered appropriately. Regarding detention basins one and two, it was recommended in the peer review that additional testing be done. This may be condition prior to the start of construction or prior to the issuance of the building permit.

Mr. Smith submitted revised plans. The Commission reviewed the plans. Mr. Smith explained that they are leaving a 25 foot no disturb buffer next to abutters so the trees and shrubs will stay within 25 feet. They are also supplementing with two double evergreen trees to fill in any see-through gaps. Ms. Washburn asked who will maintain the basins. Mr. Smith said Borrego Solar will maintain the basins. After the lease is up, the owner will maintain the basins.

Ms. Washburn read Ms. Lochner's comments because Ms. Lochner could not attend the meeting. The comment was that she did not see that Graves Engineering verified the re-

classification of soil group C soils to D soils. In a letter from Graves Engineering, Mr. Smith read that Graves Engineering reviewed the hydraulic calculations and found them in order.

A draft Order of Conditions will be prepared for the next meeting. Mr. Grimes said that as it stands now, the Conservation Commission has no issues with the project. Mr. Smith will relay that to the Zoning Board at their next meeting. *At the applicant's request, the meeting has been continued to June 27, 2012.*

8:03 p.m. Opened the Public Hearing for Request for Determination of Applicability for Sarah Noble-Young

Property: 22 Pleasant Street, Spencer, MA

The project is to install an in-ground pool. Ms. Washburn, Ms. McLaughlin and Mr. Reed inspected on 6/5/12. The stream within 100 feet is the perennial stream that flows out of Lake Whittemore. The old topographic map for the property shows it as a "millpond" but now it is definitely functioning as a perennial stream and not a pond. Ms. Washburn said if the Commission wants to stick to their policy requiring an NOI for all riverfront filings, the mean annual high water line of the perennial stream should be delineated and an NOI should be submitted. Mr. Grimes asked how big the pool is. The pool is 16'x30'. Mr. Grimes said that hay bales and silt fence are not marked on the plan. No grading is shown on the plan. Mr. Young said there is no grading. The hole will be dug and that's it. There will be no moving of earth anywhere near the water. Mr. Grimes said no work will be allowed beyond the wood furnace. Mr. Young drew the hay bale and silt fence line on the plan.

The proposed conditions are as follows:

- No work beyond the hay bale and silt fence line or beyond the wood furnace
- Hay bales and silt fence are to be installed in front of the wood furnace
- No stockpiling
- Call for inspection when the hay bales and silt fence are installed.

A motion to close the public hearing (Moennsad/Snow) passed 5/0.

A motion for a Negative Determination with conditions as discussed (Snow/Reed) passed 5/0.

8:22 p.m. Opened the Public Hearing for Notice of Intent for Paul Huard

Property: 22 Longview Drive, Spencer, MA DEP#293-0772

Art Allen from EcoTec said he became involved in this project several months ago after the stone dock structure was built. Michael Andrade from Graves Engineering has been involved also. The pre-existing stone structure was estimated by Mr. Andrade to be 750 cubic feet. It was demolished without permission. The new existing structure was built without permission and extends and encroaches on the property to the north and the south. B & R Surveying Company did the survey of the existing structure. Mr. Allen is proposing to reduce the existing stone dock on both the north and south. The abutter to

the north became aware of the encroachment today. They have not had time to speak to the abutter. With the constraints of the property, there is only 17 feet of frontage on Lake Whittemore. Both abutters are present tonight.

Mr. Allen had spoken with the Lockhart's tonight and he said their concern is the water flow and currents with the new structure. Laura Lockhart said when she goes out into the water she used to be able to see to the other side of the lake. She now only sees stone wall.

Ms. Washburn said that she, Mr. Reed, Ms. McLaughlin, Mr. Allen and Michael Andrade did a site inspection on June 5th. There is a new pile of fill, and piles of brush near the stream, evidently dragged up from the altered area that need to come out. They need to come out because they amount to alteration of the buffer zone to the intermittent stream and were not included in the Notice of Intent. This work should be shown on the revised Notice of Intent plans. Ms. Washburn said the Notice of Intent proposes to provide only 48 hours notice to the Spencer Conservation Commission prior to the start of restoration work. Ms. Washburn said she would like 5 business days notice since she only works part time.

Ms. Washburn said the Notice of Intent proposes to leave in 750 cubic feet of material in Lake Whittemore. It would stick up above the water when the lake is full. The previous wall did not stick up above the lake when full. The plan shows a new stone wall to support a dock. That approximates the 750 cubic feet of material in the Land Under Water Body supposedly there before the new pier was built.

Ms. Washburn went on to say the plan shows 10 feet of bank remaining altered after the 18-foot bank restoration occurs. Art Allen says 10 feet of the bank was previously altered based on photographs. Ms. Washburn said this is disputable. The proposed alteration/replacement of 18 feet of bank does not include this 10-foot swath. It includes land on Mr. Huard's land and on both abutters' land. The regulations say that "projects...that...alter up to 10%...of the length of the bank found to be significant to protection of wildlife habitat, shall not be deemed to impair its capacity to provide important wildlife habitat functions." Ten percent of the length of the bank on the subject property would be approximately 1.7 feet since the Huard's had about 17 feet of lake frontage; not 10 feet.

Mr. Allen said the restoration proposal now is to plant shrubs. Mr. Huard would prefer to not have shrubs. Ms. Washburn said Mr. Huard does not have permission from abutting land owners to work on their land. Mr. Grimes had previously stated that he wanted the work to be completed before the next lake drawdown. Mr. Allen said in his opinion the most sensible time to do the work would be during the drawdown.

Ms. Lockhart said the water quality has really changed since this structure was built. The water is now very murky and mucky. This is their main swimming area and it's just not the same. Mr. Reed asked Mr. Allen if something can be done with the base that is there

now to improve the flow of water. Mr. Allen said they are brainstorming about that and will speak with the engineer.

Mr. Allen said the above-water part of the dock extended 10 to 12 feet out from the shore. The dock was made of wood which is now lying on the ground. Ms. Washburn asked how long the new one extends out from the bank. Mr. Allen said it extends out 32 feet from the bank above the water.

Mr. Grimes said the fill in the buffer zone to the stream is a violation. The Commission would like the alteration to be restored back to its previous condition. Ms. Washburn said if Mr. Huard wants to do any work within 100 feet of the stream, he must get permission from the Conservation Commission. The Commission would like the stream delineated and add that to the plan. Mr. Grimes said hay bales must be installed around the pile of fill to stabilize it.

At the request of the applicant, the hearing has been continued to July 11, 2012.

Other Business:

17 Laurel Lane: Ms. Washburn received a complaint on 6/5/12 about work being done within 100 feet of a stream that flows into Sugden Reservoir. Ms. McLaughlin, Mr. Reed and Ms. Washburn drove by on 6/5/12. An excavator was there between the house and what looked like a new stone retaining wall that is about 10 feet high. Disturbed soils were visible within 100 feet of the stream. On 6/6/12, Ms. Washburn did another inspection and took more photos. There is a hose coming out of the culvert between the new retaining wall and Laurel Lane. It is unclear whether it is adding something to the culvert or sucking water out. Ms. Washburn sent the photos of the hose to Eben Butler and Steve Tyler. She asked the building inspector to see if the wall needed a permit from him. He said it should have had a permit. There was a lot of soil in the driveway and the road. Mulch and loam are stockpiled within 10 to 20 feet of the stream that flows into Sugden with no ESC anywhere on the property. The NOV ordered the owners to appear at tonight's meeting and to file a NOI. On 6/12/12, Ms. Washburn inspected after the Flannerys called. Most of the disturbed soils had been stabilized except for an area above the stream. The Flannerys put hay mulch there and brought in photos to prove it.

Ms. Flannery said she applied for a building permit today. The Commission said they would like the Flannerys to file a Notice of Intent for work done within the buffer zone. Also the work area must be stabilized to make sure nothing gets into the stream or lake. The Commission gave them permission to spread the pile of loam to get it away from the top of the stream bank.

45 Lake Street: Ms. Wissiup said she had looked at the Houston's drainage and it has done absolutely nothing. Her intention was do something like the Houston's drainage but since it's not working, they were going to have a landscaping company come in. However, there was a fire at the house in January and they are no longer in the house. They have been commuting from Woodstock, Connecticut to get the house cleaned up.

Ms. Wissiup said as soon as they are back in the house they will call a landscaper. The house is currently condemned due to the fire. Ms. Washburn said she received a phone call from Mrs. Barry from down the street next to the lake and she said she has a huge gully every time there is a storm and all the sand is washing into the lake. Mr. Grimes said there has to be some progress soon and for the Wissiup's to keep the Commission informed as to what is going on. Ms. Wissiup is looking to get everything taken care of by August. Ms. Washburn said when their conservationist is going to go to their property, let her know so she can meet at the property and listen to what the conservationist has to say.

129 Wilson Avenue: Ms. Washburn had received a complaint about work being done near Stiles Reservoir. She inspected and took photographs on June 5th. The project involves removing pressure-treated wooden retaining walls and replacing them. Ms. Paquette's husband, Jack Thompson, admitted that he had hydraulic equipment within 40 feet of the water without a boom. On June 6th, Ms. Washburn issued a Notice of Violation and provided a Notice of Intent packet, which Ms. Paquette picked up. Ms. Washburn had told them to attend tonight's meeting and to file the NOI by June 20th.

Mr. Thompson said there was an existing pressure-treated retaining wall that was deteriorating. He said he did most of the digging by hand. He had stock piled the dirt and barricaded the pile with the old timbers.

Ms. Washburn will give them a list of consultants to help with this project. Ms. Washburn said they have a problem with sediment piling up from the road runoff, where the perennial stream enters Stiles Reservoir, and they remove it occasionally. If they did not take the sediment out a delta would build up. Ms. Washburn asked where they put the sediment. Mr. Thompson said his wife just rakes it around. They do not take it out with a machine. They will file the NOI by June 20th. Mr. Grimes said a plan must be submitted and it needs to be to scale and done by a surveyor. Mr. Thompson will let Ms. Washburn know when he has a plan done and when he is going to file the NOI.

10 Cooney Road: Ms. Washburn received a complaint about work in the riverfront to the Seven Mile River. When she inspected, the driveway was being graded. The contractor admitted to bringing in fill. Mr. Dahrooge should have filed before doing the work because the driveway is in the riverfront as well as the buffer zone to a BVW, and the buffer zone to an intermittent stream that runs under the driveway. No resource areas had been flagged. Ms. Washburn issued a Notice of Violation. Mr. Dahrooge agreed to put up some ESC. Ms. Washburn re-inspected and the ESC had been installed. Ms. Washburn said that Mr. Dahrooge had previously called the building inspector to ask if permits were needed to do his driveway and the inspector had told him no permits were needed. Ms. Washburn showed the Commission the photos she had taken. Ms. Washburn said an RDA could be done for work after the fact. Mr. Grimes said they could use the old plan and put re-grading the driveway instead of proposed driveway. The Commission told the applicant he must submit an RDA.

GH Wilson Road: Mr. Grimes said the water had risen up on the stream coming out from the beaver pond on GH Wilson Road. Ms. Washburn, Mr. Grimes and Malcolm Speicher inspected the dam last night and it has been physically altered by human beings. The beavers are restoring the dam now. Mr. Speicher called Mr. Grimes tonight after 5 p.m. and said a pickup truck was parked there today. Mr. Speicher asked if Mr. Grimes could inspect tonight before the meeting. Mr. Grimes inspected and said no one has touched it since last night.

Mr. Patrick Garner, property owner, said he received a phone call from Ms. Washburn and she told him that someone was out shooting guns and tearing down the dam. Ms. Washburn said that Tim Rivetts said that there were two different cars at the site; a silver Honda Accord with no tinted windows and a silver Honda Civic with tinted windows. There were also two men in bathing suits seen clearing debris out of the culvert under the road on Sunday.

Mr. Garner called DEP and spoke with Maryann DiPinto. She had said the beavers were most likely re-building. Ms. Washburn said that Mr. Tim Rivetts saw two men today with rakes used to pull beaver dams apart. Mr. Rivetts questioned the men and they refused to identify themselves. Mr. Rivetts said they admitted that they lived on Stiles Reservoir and that they wanted the water level to come up faster. Mr. Rivetts said the men got into a silver Toyota pickup truck. He got the license plate number. Ms. Washburn called the police to run the plate. Officer Befford said the truck belonged to Carrie Bowler of 51 Lake Avenue. Ms. Washburn looked up the assessor's record and 51 Lake Avenue is owned by Peter Bowler and Carrie Baker.

Ms. Washburn called Fish and Wildlife. They told her to call DEP Law Enforcement. She did call but they did not call her back. Ms. McLaughlin questioned whether anything can be done since we didn't know who breached the dam, so there isn't much that can be done. Ms. Washburn said she would go to 51 Lake Avenue with a police officer and question the owners of the truck. Ms. Washburn will update the Commission at the next meeting.

William Casey Estates: Ms. Washburn inspected and took photos on June 25th. She said the slopes on the right facing the property have been hydro-seeded. Groundwater was flowing out of the slope and into a ditch. The ditch was never shown on the site plans submitted. There is a stone check dam in the ditch. The ditch flows into the settling pool. The soils around the settling pool are unstable. The settling pool was recently dredged and the spoils were placed beside the new stone anti-tracking pad. The hay bales are rotten and the silt fence is falling down. Attorney Stoddard came in to see Ms. Washburn on June 12th. He said Mr. Jennings said he put loam on the slopes before they were hydro-seeded but this needs to be verified on a site inspection. Attorney Stoddard said he watched Mr. Jennings put loam on the slopes. The Commission granted permission to Attorney Stoddard to extend the anti-tracking pad out to the road. The Commission will do a site visit.

130 Wilson Street: Michael Audette is the property owner. Ms. Washburn said on June 12th she took photos of the disturbed soils where vegetation was apparently removed. There is a stream across Whittimore Cove Road. She will issue Notice of Violation.

133 Wilson Street: Richard Monette is the property owner. On June 12th Ms. Washburn photographed disturbed soils where vegetation was apparently removed. There appears to be wetlands across Wilson Street. Ms. Washburn will issue a Notice of Violation.

Bond Sand and Gravel: Ms. Washburn and the Commission did a site visit. Mr. Hubacz installed rip rap and big boulders at the river crossing. Ms. Washburn said it seems to be stable. She wrote a letter to Mr. Hubacz stating in order to get the gravel permit renewed Ms. Washburn must review the whole site in the fall.

Site Visits: The Commission will do site visits on Saturday, June 23, 2012 at 9 a.m. at William Casey Estates.

173 & 183 Paxton Road: Ms. Washburn will send both property owners Enforcement Orders.

June 27, 2012 meeting has been cancelled because there will not be a quorum.

Mr. Grimes will not be at the July 11th meeting.

New Applications: None

A motion to adjourn the meeting at 10:15 p.m. (Reed/Snow) passed 5/0.

Respectfully submitted by:

Lisa Daoust, Clerk
Development & Inspectional Services

Documents reviewed at the 5/23/12 Spencer Conservation Commission meeting:

Agenda for the 6/13/12 meeting.

Margaret's report dated 6/13/12.

Minutes from the 5/23/12 and 5/30/12 Spencer Conservation Commission meetings.

Determination for 95 Clark Rd.

File for 22 Longview Drive.

Two photographs taken at 22 Longview Drive, submitted by Arthur Allen of EcoTec, Inc.

File for 22 Pleasant Street RDA.

Revised site plan presented by Mr. Young for 22 Pleasant Street.

File for 115 Wilson Street NOI.

Email from Judy Lochner with her comments re: 115 Wilson St. NOI.

Photograph and assessor's map of 130 Wilson St.

Photograph and assessor's map of 133 Wilson St.

A letter from Phillip Stoddard dated 6/13/12 re: stabilizing Wm. Casey Estates, Cranberry Meadow Road.

A file including photographs taken by Malcolm Speicher and Margaret Washburn of beaver dam breaching at 37 GH Wilson Rd.

File for 10 Cooney Rd. including Notice of Violation and photographs.

File for 129 Wilson Ave. including Notice of Violation and photographs.

File for 17 Laurel Lane including Notice of Violation and photographs.

Affidavit dated 6/5/12 from Lycott Environmental re: treatment of Lake Whittemore.

Letter dated 5/22/12 from Lycott Environmental re: treatment of Lake Whittemore.

Letter dated 5/25/12 from Lycott Environmental re: treatment of Thompson Pond.

Letter dated 5/23/12 from Lycott Environmental re: treatment of Brooks Pond.

Letter dated 5/24/12 from Lycott Environmental re: treatment of Brooks Pond.

Letter dated 5/25/12 from Lycott Environmental re: treatment of Brooks Pond.

Letter dated 6/1/12 from Carl and Mary Wilson to Town Administrator and Board of Selectmen re: removal of Agricultural tax lien on 115 Wilson Street, change of use of a portion of the property, and a resolution of the Board of Selectmen against exercise of first refusal and option to purchase.

Notice of Activity and use limitations and letter from CMG Environmental to Building Code Enforcement Official re: Map R34, Lot 8, East Main Street (a portion of the former Sibley property).

E-mail from Steven Herzog to Ginny Scarlet re: CSX annual herbiciding on the railroad.